

CHAPTER 6 RIPARIAN RIGHTS AND WATER PRIVILEGES

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600 CONSTRUCTION, REPAIR, AND DREDGING IN D.C. WATERS

- 600.1 No structure shall be constructed, reconstructed, or repaired in any waters shoreward of the pierhead line unless the Mayor, pursuant to this chapter, issues a permit for the construction, reconstruction, or repair of the structure.
- 600.2 All structures between the bulkhead line and the pierhead line shall be of open pile construction.
- 600.3 No construction of wharves or piers or any other structures shall be authorized or permitted riverward beyond the pierhead line.
- 600.4 No private dredging shall be done in any waters shoreward of the pierhead line unless the Mayor, pursuant to this chapter, issues a permit for the dredging.
- 600.5 Private dredging shall be done in accordance with the terms set forth in the permit, and shall be completed within the time period prescribed in the permit.
- 600.6 Permits are not required for repairs which do not alter any structural parts. These facts shall be determined in each case by the Department.

AUTHORITY: Unless otherwise noted, the authority for this chapter is An Act of Congress, approved March 3, 1899, 30 Stat. 1377, Title 9, §§101 and 102; and An Act approved March 3, 1899, 30 Stat. 1151, ch. 425, §10, 33 U.S.C. §403; §412 of the District of Columbia Self-Government and Governmental Reorganization Act as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Code §1-227(a) (1992 Repl. Vol.).

SOURCE: Commissioners' Order No. 54-576, dated March 16, 1954, 5T DCRR §§2.1, 2.2, and 2.3 (September 21, 1970).

601 APPLICATION FOR A PERMIT

601.1 Application for a permit to dredge, construct, reconstruct, or repair any structure covered by this chapter shall be made to the Department of Consumer and Regulatory Affairs (also referred to in this chapter as the "Department").

601.2 Each application shall be accompanied by two (2) blueprints, showing the proposed dredging construction, reconstruction, or repair, and a statement from the District Engineer, Washington District, U.S. Army Corps of Engineers, with respect to compliance with Department of the Army regulations.

601.3 The Department shall refer the application and plans to the Engineer of Bridges for approval or suggestions for structural changes.

601.4 All work under permits shall be inspected for compliance by the Department.

SOURCE: Commissioners' Order No. 54-576, dated March 16, 1954, 5T DCRR §2.3 (September 21, 1970).

602 TIME LIMITATIONS

602.1 All dredging, construction, reconstruction, or repairs approved shall be started within six (6) months after the date of the issuance of the permit for the work.

602.2 All work approved shall proceed to completion in accordance with the terms of the permit issued for the work.

602.3 If the work is not started within the six (6) month period provided under §602.1, the permit issued for the work shall expire.

SOURCE: Commissioners' Order No. 54-576, dated March 16, 1954, 5T DCRR §2.4 (September 21, 1970).

603 ARTIFICIAL FILL

603.1 No artificial fill shall be deposited in any waters shoreward of the bulkhead line unless the Mayor, pursuant to this chapter, issues a permit for the deposit of the artificial fill.

603.2 Artificial fill shall be deposited in accordance with the terms of the permit, and within the time set forth in the permit.

603.3 The fill shall be confined within a structure sufficient to retain the fill or kept sufficiently shoreward of the bulkhead line to prevent sloughing of fill into the river beyond and riverward of the bulkhead line.

603.4 Any sand or gravel spilled or dropped in waters shoreward of the bulkhead line in loading or unloading, if recovered or removed promptly, shall not be subject to this section.

603.5 No artificial fill shall be authorized or permitted between the bulkhead line and the pierhead line.

SOURCE: Commissioners' Order No. 54-576, dated March 16, 1954, 5T DCRR §2.5 (September 21, 1970).

604 RIPARIAN RIGHTS AND WATER PRIVILEGES PETITIONS

604.1 Any person, corporation, association or other entity owning land, with riparian rights or water privileges appurtenant to that land, bordering any waters or having the right to possession of that land and appurtenances, or having riparian rights or water privileges in those waters, may file a petition in writing, to the Department seeking any or all of the following:

- (a) Fixation of the boundaries of riparian or water privileges in which the petitioner is interested within the pierhead line in those waters; or
- (b) A permit to deposit artificial fill within the bulkhead line in those waters.

604.2 Each petition shall consist of an original and four copies, addressed to the Mayor, and duly verified by the petitioner.

604.3 A filing fee of twenty-five dollars (\$25), payable to the order of the D.C. Treasurer, shall be paid upon the filing of each petition.

604.4 Each petition (and copy of a petition) filed under this section shall have attached to it a blueprint showing the area involved.

604.5 Each petition shall name as respondents all persons, corporations, and associations whose interests will be affected by the prayers for relief in the petition.

604.6 Within ten (10) days (unless the Mayor shall for cause extend that time) after the filing of the petition, each petitioner shall file with the Mayor an affidavit showing that a copy of the petition was served upon each party named as respondent in the petition personally or by mail, postage prepaid, to the last known address of the respondent.

604.7 If the petitioner fails to name and serve all interested parties, the Mayor shall have the right to defer any hearing in the matter until the petitioner establishes by affidavit that all interested parties have been served as provided for in this chapter.

604.8 Each party served shall have ten (10) days from the date of service upon that party to file a response setting forth any objections or consent to the relief, action, or permit sought in the petition.

SOURCE: Commissioners' Order No. 54-576, dated March 16, 1954, 5T DCRR §3.1 (September 21, 1970).

605 INITIATION OF PROCEEDINGS BY THE DISTRICT

605.1 The Mayor may initiate proceedings under this chapter to regulate, control, determine, or locate any property, right, or privilege covered by this chapter. The Mayor may also initiate proceedings to modify, correct, change, or alter actions taken under this chapter.

605.2 In any proceedings initiated by the Mayor, notice of the hearing fixed by the Mayor shall be given to all interested parties listed on the records of the Assessor of the District of Columbia as the owners of the properties, rights, and privileges affected, by following the procedures set forth in this chapter as nearly as may be practicable.

SOURCE: Commissioners' Order No. 54-576, dated March 16, 1954, 5T DCRR §3.3 (September 21, 1970).

606 INTERVENTION OF INTERESTED PARTIES

606.1 Any interested party may intervene in any proceeding initiated under this chapter prior to the close of the hearing. An intervenor shall certify to the Mayor that a copy of the intervention has been served upon each party, respondent, or intervenor prior to the intervention.

606.2 Objections, consents, and comments prior to or at the hearing may be submitted in writing by interested parties or their representatives to the Mayor, who may receive them and give them such weight as he or she deems just and proper.

SOURCE: Commissioners' Order No. 54-576, dated March 16, 1954, 5T DCRR §3.2 (September 21, 1970).

607 HEARINGS ON PETITIONS

607.1 The Mayor shall fix the date for the hearing on the petition, and shall notify the petitioner, respondents, and intervenors by mail of the date set for the hearing of the petition and related pleadings.

607.2 The Mayor may give such other notice of the proceedings to other persons, as deemed necessary in the Mayor's discretion.

607.3 With the consent of all interested parties, any petition filed pursuant to this chapter may be submitted to the Mayor for determination without a hearing.

SOURCE: Commissioners' Order No. 54-576, dated March 16, 1954, 5T DCRR §§3.2 and 3.6 (September 21, 1970).

608 CONDUCT OF HEARINGS

608.1 The hearing provided for in this chapter shall be a public hearing.

608.2 Any party may be represented by counsel.

608.3 The Mayor shall preside over the hearing, and shall make decisions and orders in the proceedings as deemed needful and just for the government, regulation,

location, or control of any property, right, or privilege placed under the Mayor's jurisdiction by law. The Mayor shall determine the order of proof and may hear oral or receive written arguments.

- 608.4 The hearing may be adjourned from time to time, and, if the time and place of the adjourned hearing is publicly announced when the adjournment is ordered, no further notice of the adjourned hearing needs to be published or given.
- 608.5 Formal rules of evidence need not be applied by the Mayor in any hearing under this chapter, and the Mayor shall have authority, in his or her discretion, to receive evidence which, in the opinion of the Mayor shall be relevant and have probative value.
- 608.6 After the hearing is closed and all evidence that the petitioners, representatives of the District, intervenors, and other interested parties desire to submit has been received, the Mayor shall make such findings and such order or orders as shall be just.
- 608.7 Copies of the findings and order(s) shall be mailed to all interested parties after the entry of the findings and order(s).
- 608.8 Any interested party may make application in writing for rehearing. The application must be made within ten (10) days after the mailing date of the copies of the findings and order(s) of the Mayor. The Mayor shall not be required in ruling upon an application for rehearing to have further hearings or to hear arguments, but may act upon the application for rehearing without a hearing or argument of the application.
- 608.9 The Mayor shall cause a record to be made of all proceedings conducted, findings entered, and orders issued under this chapter. The record may include a stenographic transcript of the proceedings, if ordered by the Mayor.
- 608.10 Following the Mayor's final decision, the record shall be filed promptly in the Department and shall be open to public inspection.

SOURCE: Commissioners' Order No. 54-576, dated March 16, 1954, 5T DCRR §§3.4, 3.5, and 3.7 (September 21, 1970).

609 FEES FOR PERMITS

- 609.1 Fees for permits to fill or dredge, construct, reconstruct, or repair any structure issued under this chapter shall be as follows:
- (a) Work costing up to five hundred dollars (\$500) \$ 9.00;
 - (b) Work costing from five hundred and one dollars (\$501) to one thousand dollars (\$1,000) \$14.00;
and
 - (c) For each additional one thousand dollars (\$1,000) of increased cost (over \$1,000) \$14.00.

609.2 Refunds of permit fees shall be made as follows:

- (a) If no work has been done under authority of permit, the fee in excess of the following shall be refunded:
 - (1) The cost of inspection to verify no work having been done, based on ten dollars (\$10) per inspector hour; plus
 - (2) The cost of any engineering examination time previously devoted to approval of plans, based on fifteen dollars (\$15) per hour; and
 - (3) Fourteen dollars (\$14) administrative costs for issuance and refund.
- (b) If work authorized by permit has been only partially one, and if the District is satisfied that no more work will be done under the permit, the fee in excess of the following shall be refunded:
 - (1) The cost of any engineering plans examination, based on fifteen dollars (\$15) per hour;
 - (2) Cost of inspections, based on ten dollars (\$10) per inspector hour; and
 - (3) Fourteen dollars (\$14) administrative costs of issuance and refund.

609.3 In order to receive a refund under this section, the request for refund shall be made within six (6) months from date of issuance, and the permit and receipt shall be returned to the Department.

609.4 No permit fee shall be charged when supported by evidence indicating that the applicant is under contract or subcontract to perform the following:

- (a) Work done exclusively for the District of Columbia; or
- (b) Work done under contract for the District of Columbia.

SOURCE: Section 201 of the License Fees and Charges Act of 1976, D.C. Law 1-82, 23 DCR 111, 126 (July 2, 1976), 5T DCRR §4.1 (September 21, 1970).

610 ENFORCEMENT AND PENALTIES

610.1 The penalty for a permit to abate a Notice of Doing Work Without a Permit shall be fifty per cent (50%) of the fee charged under §609.

610.2 Any person or corporation violating any provision of this chapter, or any provision of any permit or order of the Mayor under this chapter, shall, upon conviction, be liable and subject to a fine not to exceed three hundred dollars (\$300) per day for each and every day the violation has existed.

SOURCE: Section 201 of the License Fees and Charges Act of 1976, D.C. Law 1-82, 23 DCR 111, 126 (July 2, 1976), 5T DCRR §§4.1 and 4.2 (September 21, 1970).

699 DEFINITIONS

699.1 When used in this chapter, the following words and phrases shall have the meanings ascribed:

Fill - including any artificial fill, the depositing of earth or any other materials by artificial means, in any waters within the jurisdiction of the District of Columbia;

Permit - a duly executed permission issued by the Mayor of the District of Columbia for the construction, reconstruction, or repair of any structure in any waters within the jurisdiction of the District, for the artificial deposit of any fill in those waters, or for private dredging in those waters, or for all of these purposes.

Pierhead and bulkhead lines - the pierhead and bulkhead lines presently existing or hereafter established by the Secretary of the Army pursuant to the Rivers and Harbors Act of 1899, §11, (33 U.S.C. §404), as amended.

Structure - including all piers, wharves, structures on wharves, bulkheads, slips, jetties, pilings, or other works located in any waters within the jurisdiction of the District of Columbia.

Waters or D.C. waters - any and all waters within the jurisdiction of the District of Columbia.

SOURCE: Commissioners' Order No. 54-576, dated March 16, 1954, 5T DCRR §1.1 (September 21, 1970).

